TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE

FISCAL NOTE

SB 195 – HB 1577

March 26, 2021

SUMMARY OF BILL: Requires the Commissioner of the Department of Labor and Workforce Development (DLWD) to set the state's minimum hourly wage rate at not less than $12 per hour, adjusted annually to reflect inflation in accordance with the consumer price index (CPI) beginning January 1, 2022. Furthermore, requires an employer to pay an employee at least one-and-a-half times the hourly rate for every hour worked in excess of 40 hours per week. Establishes a cause of action for employees, if employers violate the state's minimum hourly wage rate.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures –
$2,680,400/FY21-22/General Fund
Exceeds $5,360,800/FY22-23 and Subsequent Years/General Fund

Exceeds $440,000/FY21-22/Higher Education Institutions
Exceeds $880,000/FY22-23 and Subsequent Years/ Higher Education Institutions

Increase Local Expenditures – Exceeds $275,000/FY21-22*
Exceeds $550,000/FY22-23 and Subsequent Years*

Assumptions:

- An effective date of January 1, 2022; therefore, the first fiscal year impacted (FY21-22) will be a half-year impact and the first full fiscal year to be impacted will be FY22-23.
- The Department of Human Resources (DHR) reports a total of 1,315 current state employees that will require a wage increase as a direct result of this legislation.
- In addition, this legislation requires an employer to pay an employee at least one-and-a-half times the hourly rate for every hour worked in excess of 40 hours per week.
- Requiring that such employees receive time-and-a-half pay will result in an increase in state expenditure, beginning in in FY21-22.
- Based on multiple unknown factors, including but not limited to the extent to which agencies may replace overtime work with other staff or other alternatives, the exact increase in state expenditures attributable to paying all state employees this increased

rate for every hour worked in excess of 40 hours per week is unknown; however, any such increase is estimated to further increase expenditures by at least 10 percent.

- Based on information provided by DHR, the recurring increase in state expenditures as a result of such wage increase is estimated to be $2,680,412 in FY21-22 ($4,873,476 x 1.10 x ½ year impact).
- Annual adjustments will increase recurring state expenditures every year there is an increase in the CPI; therefore, the recurring increase in state expenditures is reasonably estimated to exceed $5,360,824 in FY22-23 and subsequent years ($4,873,476 x 1.10).
- The University of Tennessee System, Locally Governed Institutions, and Tennessee Board of Regents Institutions will require additional expenditures for increased payroll and increased contract employee costs. The total recurring increase in state expenditures for institutions of higher education is reasonably estimated to exceed $800,000.
- A first-year increase in state expenditures exceeding $440,000 ($800,000 x 1.10 x ½ year impact) in FY21-22 and a recurring increase in state expenditures exceeding $880,000 in FY22-23 and subsequent years for institutions of higher education ($800,000 x 1.10).
- The impact to local government expenditures is dependent on several unknown factors such as the number of local government employees that will be impacted by the legislation, the extent in which each employee's wage must be raised to meet the requirements of the legislation, the extent of any change in the number of hours that each employee works in a year, and whether local governments will decide to reduce their total number of employees as a result of higher wage expenses.
- Given the extent of unknown factors, a precise impact estimate for local government expenditures is difficult to determine. However, and based on the estimated impact to state government expenditures, the mandatory recurring increase in local government expenditures is reasonably estimated to exceed $550,000 per year as a result of increased wage expense to local government employees ($500,000 x 1.10).
- A first-year mandatory increase in local expenditures exceeding $275,000 ($500,000 x 1.10 x ½ year impact) in FY21-22 and a recurring mandatory increase in local expenditures exceeding $550,000 in FY22-23 and subsequent years ($500,000 x 1.10).
- The net impact to state and local government revenue is estimated to be not significant. This assumes additional state and local sales tax collections for state and local governments respectively as a result of impacted employees spending a higher wage within the economy; however, any such impact is assumed to be offset by other reductions in state and local business tax collections occurring as a result of reduced net income for impacted business owners occurring as a result of paying higher wage expense.
- Any fiscal impact to the DLWD for the Commissioner to determine the appropriate minimum wage is estimated to be not significant.
- There will not be a sufficient number of minimum wage resolution cases for state or local government to experience any significant increase in revenue or expenditures.
- Based on a 2011 article in the Employee Rights and Employment Policy Journal entitled "Enforcement of State Minimum Wage and Overtime Laws: Resources, Procedures, And Outcomes," the states of Georgia and Texas use the private right of action to enforce their state minimum wage laws.

- The provisions of the legislation do not specifically require DLWD to enforce or investigate minimum wage violations.
- For purposes of the fiscal note, it is assumed the private right of action, much in the same manner as Georgia and Texas, will be the enforcement mechanism for the provisions of the legislation.

IMPACT TO COMMERCE:

Increase Business Revenue –
Exceeds $1,500,000/FY21-22 and Subsequent Years
Exceeds $3,000,000/FY22-23 and Subsequent Years

Increase Business Expenditures –
Exceeds $5,000,000/FY21-22 and Subsequent Years
Exceeds $10,000,000/FY22-23 and Subsequent Years

Jobs Impact – Net Impact – Unknown

Assumptions:

- An effective date of January 1, 2022; therefore, the first fiscal year which will be impacted is FY21-22 (half-year) and the first full fiscal year to be impacted will be FY22-23.
- The extent of any increased business expenditures is dependent upon several unknown factors such as the number of Tennessee business entities impacted by the legislation, the number of employees that will receive the pay increase, and the extent of any change in the number of hours that such employees work in a year, the amount of overtime pay that will be given for employees of businesses, and whether the impacted businesses decide to reduce their total number of employees as a result of higher wage expenses. Given these unknown factors, determining a precise estimate for increased business expense is difficult. However, the cumulative and recurring increase in business expense for Tennessee businesses is reasonably estimated to exceed $10,000,000 per year statewide.
- An increase in business expenditures exceeding $5,000,000 in FY21-22 and a recurring increase in business expenditures exceeding $10,000,000 in FY22-23 and subsequent years.
- A portion of the additional wages paid to public and private sector employees as a result of this legislation will be spent in the Tennessee economy. As a result, other Tennessee businesses will experience an increase in business revenue as the additional income is spent in the Tennessee economy.
- The total amount of increased wages paid to public and private employees that will then be spent on new purchases from private businesses is unknown; however, given that this legislation is estimated to increase wages by an amount exceeding $10,000,000

statewide, it is reasonably assumed that there will be a recurring increase in business revenue exceeding $3,000,000 statewide.

- An increase in business revenue exceeding $1,500,000 in FY21-22 and a recurring increase in business revenue exceeding $3,000,000 in FY22-23 and subsequent years.
- Given that wage expenses will increase for some employers, this could result in some companies reducing their number of employees to account for the higher wages. However, the additional wages being spent in the economy may increase demand for goods and services within the economy, thereby increasing the number of jobs for other businesses. The net impact to the number of Tennessee jobs is considered unknown.

*Article II, Section 24 of the Tennessee Constitution provides that: *no law of general application shall impose increased expenditure requirements on cities or counties unless the General Assembly shall provide that the state share in the cost.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner

Krista Lee Carsner, Executive Director

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